

REMARKS

Interview Summary

Applicant wishes to thank the Examiner for the courtesy of the telephonic interview on January 18, 2011 with Applicant's representative Thomas A. Turano to clarify the rejection of claim 1.

Status of Claims

Prior to entry of this Amendment and Response, claims 1, 3, 9-16, 18-22, 26, 30-36 and 54-56 were pending in the application. Claims 1, 20, and 54 are amended herein. Claims 21 and 22 are herein cancelled. Thus, upon entry of this amendment, claims, 1, 3, 9-16, 18-20, 26, 30-36 and 54-56 will be pending and presented for further examination.

Claims 1, 20, and 54 have been amended to recite that "a third party" may set a parameter. Claim 1 has further been amended to recite that the parameters are set "prior to or during" the transaction.

Support for these amendments may be found at least in paragraph 88 and the fact that because there is no limitation on when the parameters can be set and the purchaser is allowed in some situations to make choices as to what charity is to be the beneficiary of the donation, the parameters can be set individually at any time until the transaction is complete.

Applicant believes that the amendments to the claims introduce no new matter.

35 USC § 112

The Examiner had rejected claims 1, 3, 9-16, 18-22, 26, 30-36 and 54-56 under 35 USC §112 second paragraph as being indefinite for using the word "and" instead of "or" when claiming "one of" or "at least one of" "a donor..., a supplier, **and** a vendor of the item of merchandise". Applicant respectfully traverses this basis of rejection.

The recited individuals are members of the group who can set parameters. Because the members constitute a group, the listing is conjunctive and the last two members of the group should be joined by the word "and". Otherwise, the use of "at least one" would lead to an ambiguity because there can be more than one of the group setting the parameters and the word "or" is disjunctive indicating that no two members of the group can set the parameters.

Applicant respectfully requests that the Examiner reconsider this basis of rejection.

Claims 21 and 22 stand rejected under 35 USC §112 second paragraph as being indefinite for referring to “the information” without antecedent basis. Claims 21 and 22 are herein cancelled removing this basis of rejection.

35 USC § 102

Claims 1, 3, 9, 12, 14-15, 18-19, and 54-55 stand rejected under 35 USC §102(b) as anticipated by Nair (US 20020099654) hereafter “Nair”.

Applicant submits as amended claims 1, 20 and 54 overcome these bases of rejection.

Claim 1 as amended recites:

A method of distributing donations to one or more charitable organizations through the sale of merchandise, the method comprising:

associating, in a database, a plurality of parameters with each item of merchandise for sale, the parameters specific to each item of merchandise, each parameter being set by one of a donor of the item of merchandise, a supplier of the item of merchandise, a third party and a vendor of the item of merchandise;

the parameters comprising: a list of charitable organizations eligible for the receipt of a donation, a purchase price for each item of merchandise, a donation amount for each item of merchandise, a total price for each item of merchandise, and an allocation as a percentage of the donation amount to one or more charitable organizations on the list, the total price comprising the sum of the purchase price and the donation amount;

offering, by a computer, an item of merchandise in response to the values of the plurality of parameters associated with the item of merchandise;

communicating, by the computer, information about the item of merchandise to a purchaser, the information comprising the purchase price, the donation amount, the identity of the one or more charitable organizations on the list, and the donation amount to be allocated to the one or more charitable organizations upon the purchase of the item of merchandise and in response to the plurality of parameters; and

receiving from the purchaser an offer to purchase of the item of merchandise for the total purchase price including the donation amount,

wherein the information about the item of merchandise is assembled by the computer from the plurality of parameters of specified by two or more of the donor of the item of merchandise, the supplier of the item of merchandise, a third party and the vendor of the item of merchandise either prior to or during the transaction.

Similarly claim 20 as amended recites:

A method of allocating proceeds to one or more charitable organizations from a sale of the item of merchandise, the method comprising:

associating, in a database, a plurality of parameters with each item of merchandise for sale, the parameters specific to each item of merchandise, each parameter being set by one of a donor of the item of merchandise, a supplier of the item of merchandise, a third party and a vendor of the item of merchandise;

the parameters comprising: a list of charitable organizations eligible for the receipt of a donation, a purchase price for each item of merchandise, a donation amount for each item of merchandise, a total price for each item of merchandise, and an allocation as a percentage of the donation amount to one or more charitable organizations on the list, the total price comprising the sum of the purchase price and the donation amount;

receiving offers to purchase the item of merchandise from one or more bidders, each of the offers comprising an offer price;

selecting, by a computer in response to the offers and the parameters, one of the offers as a winning offer;

designating the bidder who submitted the winning offer as a purchaser of the item of merchandise;

communicating, by the computer, to the purchaser an indication that the purchaser's offer was accepted and the list of one or more charitable organizations;

receiving from the purchaser an identity of one or more charitable organizations to which a portion of the winning offer price is to be allocated; and

allocating, by computer, a portion of the winning offer price to said one or more charitable organizations.

Finally, claim 54, as amended, recites:

The method of claim 1, wherein the allocation as a percentage of the donation amount for one or more charitable organizations on the list is determined, at least in part, by at least one of a donor, a vendor, a supplier, a third party and a charitable organization.

That is, each claim, as amended, recites that each parameter for each item of merchandise may be set by various ones of a supplier of the item of merchandise, a third party and a vendor of the item of merchandise. Support for this amendment is found at least in paragraph 88 of the instant application:

[0088] Further, it is possible to predetermine that for a specific ticket, X % goes to Charitable Organization A based on some third-party preference (e.g. the team, corporate sponsor) and permitting the customer to select one or more charitable organizations to receive an equal (or otherwise split) allocation of the remainder of the premium. For example, for all Red Sox tickets, 20% of the premium would be automatically allocated to the Red Sox Foundation (based on the preference of the Red Sox as a ticket source). The remaining 80% of the premium could be allocated to charities selected by the purchaser from our predetermined list.

On the other hand Nair simply describes a website in which a seller can list information about an object for sale and certain details about the seller and the item. As described by paragraph 5 of Nair:

As a community portal, residents will have the option to post items for sale, exchange etc. using the portal. A option can be provided to choose an address display to help people make quick purchase/exchange decisions since they in some embodiments may know who is offering the item and where the item is being offered for sale and whether items may be picked up rather than mailing etc. In addition, this also builds trust among the residents in the communities.

The Examiner has asserted that:

“...where the operator of the website is interpreted as the vendor of the website and where the purchaser may also be a supplier of an item, as evidenced in paragraphs 4-5);” (Page 4, Section 2, 1st paragraph)

In Nair a person is placing on a community board his or her own name and address, merchandise information, and charity information. Even assuming arguendo it is the case that a single entity can assume multiple roles for the basis of the interpretation of these claims, in no case can that individual be a third party for the purposes of claim interpretation.

The present invention lets multiple entities make decisions on how parameters are set. The intent is to create greatly improved flexibility, control and incentives for multiple entities to provide merchandise for sale or donation and/or to refer purchasers so as to maximize benefit to charities they want to support.

Nair only describes a single individual selling his or her own merchandise for the benefit of a charity and does not fairly describe or even contemplate the type of mechanism disclosed by the present application. The present invention is a new way to improve charitable giving that is not taught or suggested by Nair.

Applicant respectfully submits that amended claims 1 and 20 overcome the bases of rejection and are now allowable and that the remaining claims are allowable at least as depending from an allowable base claim. Applicant further submits that claim 54 is allowable as overcoming its basis of rejection.

Conclusion

In view of the foregoing, Applicant respectfully submits that all the claims are in condition for allowance and request early favorable action by the Examiner.

Applicant requests a telephonic interview with Applicant's representative before substantive examination of the claims. Applicant believes this would expedite the favorable prosecution of the present application and advance the application toward a condition for allowance.

Respectfully submitted,

Date: May 11, 2011

/Thomas A. Turano/

Thomas A. Turano
Registration No.: 35,722
Attorney for Applicants

K&L GATES LLP
State Street Financial Center
One Lincoln Street
Boston, Massachusetts 02111-2950
Tel. No.: (617) 261-3148
Fax No.: (617) 261-3175